

1 Network, Inc., dated March 23rd, 1994. Attachment L is a one-
2 page letter from Mr. Monahan to the Federal Communications
3 Commission dated February 11th, 1994. Attachment N was to
4 have related to the station's request for a special temporary
5 authority to return to the air. In light of the Bureau's
6 submission of those documents, it's not necessary for us to
7 provide that I think. Attachment N consists of a balance
8 sheet of CAVAN Communications as of December 31, 1993. That's
9 a one-page document, an income statement for CAVAN
10 Communications dated December 31, 1993, that's a one-page
11 document. There's also a CAVAN Communications balance sheet
12 as of December 31, 1993, also a one-page document. I'm sorry,
13 a two-page document. And as I indicated to Your Honor this
14 morning, we also provided a supplement to attachment N this
15 morning and provided copies to the court reporter, to yourself
16 and to Mr. Schonman. The supplement contains a balance sheet
17 for CAVAN Communications as of December 31, 1993. That's a
18 one-page document. It includes an income statement for CAVAN
19 Communications as of December 31, 1992. That's a two-page
20 document. And it includes copies of CAVAN's tax return for
21 the year 1991 which is a one -- six-page document, a copy of
22 CAVAN Communications federal tax return for the year 1992
23 which is also a six-page document and a copy of the CAVAN
24 Communications federal income tax return for 1993 which is
25 also a six-page document. Finally, Your Honor, we have

1 provided this morning to yourself and to Mr. Schonman and to
2 the court reporter a new document entitled attachment O which
3 consists of a March 11th, 1994 letter from the FCC to CAVAN
4 Communications Corporation noting a -- or authorizing a change
5 in call sign for WTMS to use the call sign WEGP effective
6 March 18th, 1994.

7 JUDGE LUTON: All right. The offering will be
8 marked as CAVAN's Exhibit No. 1 with attachments A through L
9 and N through O.

10 MR. HUTTON: Correct, Your Honor.

11 (Whereupon, the document referred to
12 as CAVAN Exhibit No. 1 was marked for
13 identification.)

14 JUDGE LUTON: All right. Want to move it for
15 admission?

16 MR. HUTTON: Yes, Your Honor, at this time I'd like
17 to move for the admission of CAVAN Exhibit 1 with attachments
18 A through L and N through O.

19 JUDGE LUTON: Objections?

20 MR. SCHONMAN: Yes, Your Honor, and observations.
21 Initially, I'd just like to note that the submission by CAVAN
22 of these exhibits were, were very difficult to, to go through.
23 They're not tabbed and many of the pages in the attachments
24 are not even numbered.

25 JUDGE LUTON: I agree. It is difficult to deal with

1 this.

2 MR. SCHONMAN: Apart from that, the Bureau does have
3 a number of objections to the testimony of Mr. Monahan and
4 since the paragraphs are not numbered I'll -- it'll take a
5 little more time to go through it. The Bureau does not object
6 to the first two paragraphs on page 1 of Mr. Monahan's
7 testimony. The Bureau does object through the beginning at
8 the third paragraph, "At the time CAVAN acquired -- " through
9 the end of the first full paragraph on page -- no, I'm sorry,
10 through the end of the second full paragraph on page 7, and
11 the Bureau objects to those paragraphs as being entirely
12 irrelevant to the designated issues.

13 Specifically, there are essentially two issues here
14 to determine whether the station has the capability to get the
15 station back on the air -- whether the licensee has the
16 capability to get the station back on the air, and none of
17 these, none of these paragraphs or the information contained
18 in them relate to that issue.

19 The other issue in this proceeding is to determine
20 whether the licensee has violated either or both of the two
21 rule sections, 73.1740 and 73.1750, and the Bureau submits
22 that the information in these paragraphs are irrelevant to
23 those rule sections as well. The information contained in
24 these paragraphs are essentially an historical recitation of,
25 of facts that CAVAN could have and in some cases did provide

1 to the Commission in making requests for extensions to remain
2 silent. As such, that information simply doesn't relate to
3 the issues. We do not have an issue here to determine whether
4 the station should remain silent. Therefore, the information
5 in these paragraphs is irrelevant to the designated issues.

6 MR. HUTTON: Well, Your Honor, first of all, I think
7 it's a little misleading to say that there is no issue as to
8 whether or not the station should remain silent. There is
9 actually the potential for revocation of the license here and
10 on that basis I think it's clearly relevant to outline the
11 history of the financial and technical and operational
12 difficulties of the station. Consistent with your ruling as
13 to Mr. Schonman's exhibits, I would expect you to consider
14 this evidence. But also I want to point out that as I
15 indicated earlier, this material does not relate to the
16 question of whether or not CAVAN violated Section 73.1740
17 which requires FCC consent to remain silent for a certain
18 period of time. It relates more to Section 73.1750 which is
19 whether or not a licensee intending to permanently discontinue
20 operation has turned its license in to the Commission for
21 rescission. And this material is offered to show that there
22 never was any permanent discontinuance and that CAVAN has made
23 good-faith efforts to keep the station operational.

24 MR. SCHONMAN: Your Honor, may I respond, please?

25 JUDGE LUTON: Yes.

1 MR. SCHONMAN: The information in the paragraphs
2 that I've objected to clearly do not relate to Section
3 73.1750. The information that I've objected to discloses
4 attempts by CAVAN to sell the station. It has nothing to do
5 with CAVAN's attempts to get the station back on the air. In
6 other words, it doesn't relate to whether CAVAN discontinued
7 operation on a permanent or a temporary basis. These are
8 attempts to sell the station. So, it certainly doesn't relate
9 to Section 73.1750. This is merely a recitation as to why the
10 station should remain silent and did through the years. Now,
11 with respect to the first issue in this proceeding, the issue
12 is whether CAVAN has the present capability and intent, that
13 is the present capability and intent, to get the station back
14 on the air. Now, it is my understanding that the station is
15 back on the air now. But apart from that, none of the
16 information shows a present intent or capability, it just
17 shows attempts to sell the station through the years. And the
18 fact that the station is back on the air now seems to me to be
19 ample evidence relating to Section 73.1750. The station -- if
20 the station is back on the air, then it obviously didn't have
21 an intent to permanently discontinue. But all the information
22 that's contained in these paragraphs are just irrelevant to
23 the designated issues.

24 JUDGE LUTON: How about the forfeiture language
25 which talks about willful and repeated violations that the

1 Bureau indicates that it intends to try to show that
2 considering CAVAN's past history it has indeed committed
3 willful and repeated violations of the rules? Is it
4 reasonable to view CAVAN's narrative here as attempting to
5 ameliorate or somehow soften the claim that whatever
6 violations it may have committed were not -- kind of hard to
7 say the rest of it -- willful and repeated? Think that's a
8 reasonable argument for them to try to make -- with this
9 narrative or not?

10 MR. SCHONMAN: No, sir, I, I think it's a stretch.

11 JUDGE LUTON: Stretch? All right.

12 MR. SCHONMAN: This information does not even
13 attempt to reveal communications with the Commission regarding
14 the silent authority. And, and that, that would be the basis
15 for the amount of a forfeiture, whether they willfully
16 violated these rule sections. The information here merely
17 indicates attempts to sell the station. It has nothing to do
18 with whether they attempted to notify the Commission about
19 their silent authority, whether they were silent without
20 authority or with authority. It has nothing to do with the
21 authority. Therefore, it has nothing to do with the rule
22 sections. It just shows a history of the station's -- that
23 is, the licensee's attempts to sell the facility. I can't see
24 at all how any of the information in the paragraphs that I've
25 objected to thus far, or any of the attachments, shed any

1 light on, on the issues. Your Honor has the task of deciding
2 these issues and I, I can't imagine how your review of this
3 information or of these exhibits will assist you in, in
4 determining how to rule on, on the two designated issues.

5 WITNESS: Your Honor, I know I'm just a witness, but
6 might I speak to Mr. Schonman?

7 JUDGE LUTON: I'm going to ask your counsel to speak
8 --

9 MR. HUTTON: Well, Your Honor --

10 JUDGE LUTON: -- speak to this. What's the effort
11 here?

12 MR. HUTTON: First of all, I think you're making --
13 you've made a reasonable point which is that if the Bureau is
14 going to seek a forfeiture it's reasonable to outline the
15 troubled history of this AM station consistent with the
16 troubled history of many other AM stations in this country.

17 JUDGE LUTON: Well, what troubled history are you
18 outlining? Is it simply as the Bureau says, showing of
19 efforts to sell the station? I mean, the Commission doesn't
20 really concern itself with that does it, or should it?

21 MR. HUTTON: Well, I, I think in, in looking at
22 decisions involving stations that have gone off the air, I
23 think the Commission has looked at whether or not the operator
24 of a dark station has made diligent efforts to seek a buyer
25 for the station. I'm familiar with, with cases, I don't have

1 the cites handy, but I believe there is, there is Commission
2 case law where that type of evidence was considered.

3 JUDGE LUTON: For what purpose?

4 MR. HUTTON: For purposes of determining what
5 sanction should be visited upon the licensee, whether there
6 should be a forfeiture or a revocation.

7 MR. SCHONMAN: Your Honor, may I respond?

8 JUDGE LUTON: Had you finished?

9 MR. HUTTON: Yes.

10 JUDGE LUTON: Okay. Yes.

11 MR. SCHONMAN: Paragraph seven of the HDO states
12 that if it is determined that revocation is not warranted,
13 then it shall be determined whether a forfeiture shall be
14 issued for violation of 73.1740 and 73.1750. So, we're
15 assuming now just for the sake of argument that if revocation
16 is not warranted should a forfeiture be issued for violations
17 of these rule sections and none of the information in the
18 paragraphs that I've objected to go to whether CAVAN failed to
19 or didn't fail to communicate with the Commission and ask for
20 authority to remain silent.

21 JUDGE LUTON: Instead, it all goes to CAVAN's
22 efforts to unload the station?

23 MR. SCHONMAN: That's, that's correct. It has
24 absolutely nothing to do with 1740 which has to do with asking
25 for authority to remain silent, and it has nothing to do with

1 whether the station permanently or not permanently
2 discontinued operation.

3 MR. HUTTON: Your Honor, I, I would argue that it's
4 definitely relevant and directly relevant because one way of
5 putting a dark station on the air is to transfer it to a
6 qualified buyer who intends to put it back on the air. No one
7 buys a station for the purposes of keeping it dark.

8 MR. SCHONMAN: Your Honor, the question is whether
9 CAVAN --

10 JUDGE LUTON: Yeah.

11 MR. SCHONMAN: -- was -- had permanently
12 discontinued, not anyone.

13 JUDGE LUTON: Sure.

14 MR. SCHONMAN: And I'd also like to make another
15 comment, if I can. On page 7, the last full paragraph which
16 begins, "The revocation order came as a surprise -- " there is
17 a reference to attachment J and attachment J as I understand
18 it constitutes the August 26th, 1993 purported response to the
19 Commission's letter of inquiry. There is no issue in this
20 case to determine whether CAVAN failed to respond to an
21 official letter of inquiry. That would be a Section 73.1015
22 issue. Section 73.1015 requires a licensee to timely respond
23 to a Commission letter of inquiry. There is no such issue in
24 this case and that's the only reason that J would possibly be
25 offered.

1 MR. HUTTON: Your Honor, attachment J on its very
2 face on page 1 says, "Re: Request for further extension of
3 silence for Station WTMS," and it's clear from the face of the
4 letter that the letter consists of a request to remain silent
5 and it includes a Anti-Drug Abuse Act certification as
6 required for a request to remain silent. To, to claim that
7 this is merely a response to a Commission inquiry is somewhat
8 disingenuous.

9 MR. SCHONMAN: Your Honor, I, I don't understand
10 counsel's statement. First of all, there's no evidence that,
11 that attachment J has ever been filed with the Commission.
12 That's what CAVAN is trying to show here, that they did
13 respond to the letter of inquiry. But it's, it's totally
14 irrelevant whether CAVAN responded to the letter of inquiry or
15 not because there's no, there's no issue to determine whether
16 they, they, they responded to the letter or didn't respond to
17 the letter of inquiry. There's no Section 73.1015.
18 Furthermore, assuming *arguendo* that they had filed a response
19 with -- to the most recent Commission letter of inquiry, it
20 would make no difference. This case may have been designated
21 for hearing anyway, even if they had asked for more time to
22 remain silent. In any event, the Commission never granted a
23 further extension of time to remain silent.

24 MR. HUTTON: Well, Your Honor, they never granted
25 it, but it may well be that it appears that they never granted

1 it because this somehow got lost. Mr. Schonman has pointed
2 out that it was never --

3 JUDGE LUTON: Let me stop this. I'm going to
4 overrule the latter objection. I would not want the record to
5 stand simply as the HDO asserts that CAVAN made no response.
6 I'd like to hear what CAVAN had to say about it and I'd like
7 the record to reflect that. According to CAVAN, it did make a
8 transmission, it did make a response. Now, what might be
9 concluded from all of that I don't know, I don't have to
10 decide that at the time. But to leave the assertion in the
11 HDO standing without any kind of challenge seems to me would
12 not be altogether fair. I'm going to overrule that objection.

13 I'm more concerned with the objections to the --
14 several paragraphs on the basis of relevancy. I continued to
15 be troubled by that. Mr. Monahan, you indicated that you
16 wanted to address and I wouldn't let you at the time. Now I'd
17 like to hear from you.

18 WITNESS: Well, Your Honor, in my other life I've
19 done some other work before this agency and one of the, one of
20 the accepted methods of putting a dark station on the air is
21 to find a qualified buyer to -- who's got the wherewithal to
22 put it on the air and I think of my written testimony in
23 Exhibit 1 deals with those efforts that we made over a two- or
24 three-year period.

25 JUDGE LUTON: Well, this is the same argument that

1 Mr., Mr. Hutton has already made.

2 WITNESS: Yeah, but, but I believe the Bureau's
3 objection was that it -- this has nothing to do with our
4 effort to return the station to the air. But I, I would say
5 it very much has something with trying to return the station
6 to the air.

7 JUDGE LUTON: An effort to have another party,
8 somebody other than CAVAN, nevertheless constitutes an effort
9 by CAVAN to return the station to the air?

10 WITNESS: Well, initially we'd even look for -- to
11 bring investors but we couldn't find anybody --

12 JUDGE LUTON: All right, but, but even so --

13 WITNESS: -- who really wanted to do that. But --
14 yeah --

15 JUDGE LUTON: -- CAVAN would stand to take some
16 credit as I understand what you're telling me even if it were
17 to find X to put the station back on the air.

18 WITNESS: Yeah.

19 JUDGE LUTON: And like the Bureau which stated that
20 our concern ought to be with CAVAN's putting the station back
21 on the air, CAVAN takes the position that it wouldn't matter
22 so long as CAVAN found somebody to put the station back on the
23 air?

24 WITNESS: Well, what they do is -- the process of
25 putting it back on the air is a matter of once a person is

1 willing to acquire the station you go back to the Commission
2 because they're well aware that if it is silent and they, they
3 are -- their concern is to find a way to get it back on the
4 air but they never have, they never have faulted, applauded or
5 passed any kind of judgment on whether the person who held the
6 station when it went dark put it back on the air or if they
7 found a qualified buyer to do it. The fact is, they would
8 encourage you to do it and in numerous instances where you
9 have dark stations much of the justification for extending is
10 that they're attempting to find a qualified buyer and they're
11 acted on that affirmatively or accepted that as a, as a public
12 interest reason for granting an extension to allow a present
13 licensee to go out and find a qualified buyer.

14 JUDGE LUTON: Okay. Thank you, Mr. Monahan.
15 Mr. Schonman, do you have anything more to say about this?

16 MR. SCHONMAN: Yes, Your Honor. I'm going to try
17 not to repeat myself because I think Mr. Monahan's statement
18 --

19 JUDGE LUTON: That's all right if you do. Go right
20 ahead.

21 MR. SCHONMAN: -- essentially mimics his counsel's
22 statements. But the first issue or task is to determine
23 whether CAVAN has the present capability. What CAVAN did two
24 or three years ago has nothing --

25 JUDGE LUTON: This really doesn't go to --

1 MR. SCHONMAN: The second issue, to determine
2 whether they violated the rules, these two particular rule
3 sections, one or both of them. What CAVAN tried to do two
4 years ago, its efforts to sell this station, has nothing to do
5 with whether they asked for an extension of time to remain
6 silent, whether they violated Section 73.1740. And as for
7 1750, 1750 relates to whether the station permanently
8 discontinued operations. Now, in, in fact, CAVAN may have
9 determined that they had no intent to bring that station back
10 at the air through the years, that they had permanently
11 discontinued operations and that all they were trying to do
12 was sell the station. This information sheds no light on
13 whether or not they had permanently discontinued. All it
14 shows is that they were trying to sell the station. I think
15 the evidence that you'll hear later this morning will reveal
16 that the station is back on the air now.

17 JUDGE LUTON: I'm sorry, you say that the efforts to
18 sell the station cannot be construed as an abandonment by
19 CAVAN of efforts to return the station to the air?

20 MR. SCHONMAN: CAVAN may have, may have determined
21 to permanently discontinue operations. That's not disclosed
22 by this information. There's no evidence here. All it shows
23 is that they wanted to sell the station. Now it appears
24 they've reversed gears and that they, they decided to put the
25 station back on the air. This doesn't show anything. All the

1 information contained in these paragraphs is information that
2 CAVAN for the most part gave to the Commission in requesting
3 further authority to remain silent. But that's not the issue
4 here, whether they should remain silent any longer. That's
5 not an issue in this case.

6 JUDGE LUTON: Again make a statement of relevancy
7 for me one more time, Mr. Hutton.

8 MR. HUTTON: I would agree that the material in
9 question does not pertain to issue number one in the case. I
10 would agree that it does not pertain to the issue of whether
11 or not CAVAN violated Section 73.1740 of the Commission's
12 rules. I would argue that it does pertain to two things that
13 need to be considered. One is whether CAVAN violated Section
14 73.1750 of the Commission's rules. That is a designated
15 issue. Secondly, whether any sanction should be imposed upon
16 CAVAN given this history of trying to put the station back on
17 the air, making good-faith attempts to find a qualified buyer
18 for the station with the intent of getting the station back on
19 the air. I think it's relevant to, to both Section 73.1750
20 and the issue of what sort of sanction if any would be
21 appropriate in these circumstances.

22 JUDGE LUTON: All right. The objection is
23 overruled. I'm going to receive the evidence. What I'll do
24 with it remains to be seen. But it's received on the bases
25 that you state, Mr. Monahan. Namely, an effort to show some

1 nonviolation of 1750 and it's hoped by CAVAN that it'll have
2 some impact by way of reduction of whatever sanction might
3 otherwise be imposed. Is that right? Is that what you said
4 essentially?

5 MR. HUTTON: Well, I would hope there would not be
6 --

7 JUDGE LUTON: Or did I screw it up?

8 MR. HUTTON: I would hope there would not be any --

9 JUDGE LUTON: If there should be a sanction --

10 MR. HUTTON: If there should be a sanction.

11 JUDGE LUTON: -- whatever sanction should be imposed
12 you would hope that this evidence would have some weight in
13 lessening the severity of it.

14 MR. HUTTON: That's it.

15 JUDGE LUTON: Yeah. All right. Received. Not
16 received. Objection is overruled. We haven't gotten through
17 the remainder of the document yet.

18 MR. SCHONMAN: Those are my only objections.

19 JUDGE LUTON: All right. Exhibit 1 then as
20 previously identified is received.

21 (Whereupon, the document referred to
22 as CAVAN Exhibit No. 1 was received
23 into evidence.)

24 MR. HUTTON: Your Honor, one preliminary matter
25 before making Mr. Monahan available for cross-examination.

1 During the course of his objection Mr. Schonman stated several
2 times that the station is back on the air. I would like a
3 stipulation that the station is back on the air pursuant to
4 the special temporary authority reflected in Mass Media Bureau
5 Exhibit No. 17.

6 MR. SCHONMAN: I think the evidence will reveal,
7 Your Honor, that the station is operational.

8 JUDGE LUTON: All right. At least there doesn't
9 seem to be any disagreement about it.

10 MR. HUTTON: Fine. Mr. Monahan is available for
11 cross-examination.

12 CROSS-EXAMINATION

13 BY MR. SCHONMAN:

14 Q Mr. Monahan, would you turn to Bureau Exhibit
15 No. 1, please? You have the binder on your desk.

16 A Yes.

17 Q As a threshold question, you're a communications
18 attorney are you?

19 A Correct.

20 Q How long have you been practicing before the FCC?

21 A Since 1969, early, late-'69.

22 Q Would you consider yourself to be an expert on FCC
23 affairs?

24 MR. HUTTON: Objection. Relevance.

25 JUDGE LUTON: It's introductory. I'm going to

1 overrule the objection.

2 WITNESS: Certain portions of --

3 BY MR. SCHONMAN:

4 Q And during your experience as an FCC attorney you
5 have -- or I should say as an attorney practicing before the
6 FCC you have represented broadcast clients with respect to
7 filings made to the FCC?

8 A Correct.

9 Q Bureau Exhibit No. 1 which you have before you, is
10 that your signature on that page?

11 A I believe it is, yes.

12 Q It's a fact the station went off the air on
13 March 29, 1991?

14 A I'm not -- I don't recall the date that it did. I'm
15 looking at this page. If it referenced that I -- maybe I'm
16 missing it. Here -- there's a notation down in the bottom.
17 Says -- I don't know if that's the correct date. I just don't
18 know. I don't know where that notation came from.

19 Q Well, from your own experience, when did the station
20 go off the air then?

21 A It was, it was in the spring of '91. I just -- I, I
22 simply don't recall the time went off the air.

23 Q Now, this letter represents CAVAN's first request
24 for authority to remain silent?

25 A I believe it does.

1 Q And this, this request was filed with the FCC's
2 secretary office?

3 A Yes, it was.

4 Q Do you remember whether it was mailed or delivered
5 to the FCC's secretary's office?

6 A My recall is it was probably delivered.

7 Q And you received a stamped copy for your files?

8 A I, I don't know. I just don't recall. That was the
9 customary practice. There should have been one.

10 Q You state here in your letter of May 17, 1991 that,
11 "Efforts are underway to restructure financing in order to
12 return the station to operation."

13 A Right.

14 Q What did you mean by that?

15 A We were looking for investors to come in. The
16 station was -- this was an AM/FM combination and the station
17 at that period of time was -- it just wasn't -- we were
18 personally putting money into it to keep it going and we
19 thought -- we were absentee and we needed somebody --
20 preferably someone who was local and we were looking for
21 investors who would either come in to invest in it locally or,
22 you know, perhaps sell the station.

23 Q So, at that time it was an either/or decision?

24 Either --

25 A I think we initially started looking for someone

1 local because we had some conversation with, with some local
2 people up there to invest money in.

3 Q At what point did CAVAN make the decision to sell
4 the station?

5 A Well, I, I suppose is when -- actually, I think I
6 was first contacted by a media firm. These things get around,
7 rumors get around I think that stations that they have trouble
8 and media -- or media brokers will approach you. I -- as I
9 recall, we were approached by Kozacko-Horton -- the media
10 brokers Kozacko-Horton wanting to know whether or not we'd be
11 interested in doing it. And that --

12 Q When was that?

13 A -- but that was, that was -- they were, they were
14 wanting to, to sell both stations, the AM and the FM.

15 Q You mean they wanted -- this is the brokerage firm?

16 A Brokerage. It's easier for them to do --

17 Q They approached you?

18 A Yes, as I recall I got a call from, from a fellow
19 named Mel Stone as to whether or not we were interested.

20 Q Well, my question was when did CAVAN make the
21 decision to try to sell the station?

22 A I think shortly after we began running into these
23 problems in the, in the -- sometime probably the summer or
24 fall of -- probably the fall of '91. When you say the
25 decision to sell, the, the -- you know, someone came long, we

1 talked to them but we -- you know, the right offer came you'd
2 sell, but we, we limped along there for a long time with this.
3 We're still limping along -- the station.

4 Q What do you mean limped along?

5 A It, it costs money to own it. I mean, it -- you --
6 because the cash flow is not sufficient to, to meet all its
7 operating costs.

8 Q Now, WTMS-AM has a sister station. Is that right?

9 A That is correct.

10 Q What are the call letters of that sister station?

11 A WTMS-FM.

12 Q Also located in Presque Isle, Maine?

13 A Yes.

14 Q And before the AM station went dark, were both
15 stations operating out of the same building?

16 A Yes, they were.

17 Q Did they have separate staffs?

18 A At one time they did and then we, we consolidated
19 and did a simulcast operation with them and we reduced the AM
20 programming staff when we did that.

21 Q How many people worked for the AM station -- this is
22 just before it went dark -- how many people worked for the AM
23 station who were not working also for the FM station?

24 A I would -- I'd have to go -- it would be difficult
25 to say because we had some part-timers that ran the board on

1 weekends but, you know, I, I, I just don't recall. One or two
2 maybe at that time.

3 Q And the cost of getting the station back on the air
4 would have been \$2,000 to replace a blown tube?

5 A That -- well, it would have been more than that.
6 It's the, the electric bills in northern Maine are terribly
7 high and they change rates in the winter so your, your bill
8 for -- just on the power of the station was a factor that
9 figured into this decision which was, which was I don't know,
10 700, 800 bucks a month for that. It was a separate site, it
11 had separate taxes, it had separate phone lines because it was
12 plugged in by phone. And it required a lot of -- at that time
13 it required a lot of engineering, special engineering to go
14 tinker and play with, just out-of-pocket costs to bring in
15 contract engineers and we just didn't have any money. I mean,
16 northern Maine is a tough economy, a very tough economy.

17 Q Can you --

18 A One of the problems was you just couldn't sell the
19 AM station and it would -- you know, dollars and sense it --
20 you know, it wasn't making any money for us and we hadn't come
21 up with any creative idea that how we could sell or make the
22 thing self-sustaining. We had piggy-backed it with the FM in
23 an effort -- whether could carry it with simulcast operation
24 but even that, you know, you couldn't on paper translate that
25 in -- well, you know, it's carrying itself.

1 Q When the station first went off the air what is your
2 estimate as to how much it would have cost to get the station
3 back on the air?

4 A Well -- gee, I don't know. I'd be speculating. I
5 don't know. Total? Just -- you mean to operate it too or
6 just -- well, equipment-wise to get it back on the air?

7 Q Well, in your direct testimony on page 1 you state
8 that, "At the time the station went off the air the station
9 simply did not have the revenue or cash available to purchase
10 the replacement tube," which in a previous sentence you
11 identified as costing about \$2,000.

12 A Yeah, it was the main driver or whatever they call
13 them.

14 Q Should I conclude from that that had you --

15 A Yeah, you know --

16 Q -- had \$2,000 you could have placed the station back
17 on the air?

18 A I suppose you could -- well, there's always the cost
19 of bringing an engineer in, the guy that has to do the -- fix
20 it up who goes down to the transmitter shack, works with the
21 test to make sure -- but maybe 2,500 in that case.

22 Q But for \$2,500 the station remained dark?

23 A Well, it was more than that because it was also the
24 ongoing operational cost of keeping it alive, which I'm taking
25 about the power bill, the phone lines and the -- whatever cost

1 we had for weekend guys who ran the board.

2 Q But is it your testimony that CAVAN did not have
3 \$2,500 to get the station back on the air?

4 A I suspect that's -- we did not have the extra cash.
5 Now, you know, you get collections. You know, your -- our
6 first concern was we had to pay our staff, we had to pay the
7 utility bills. I mean, they're about the top five, you have
8 to take care of each month just to keep the door open. And
9 there's only so much money around. Now, we may have had
10 collections -- say well, there's -- you know, this month
11 you've collected \$25,000, obviously there's \$2,000 in there,
12 why don't you take that and put it into the tube. Well, it's
13 a decision made that I got to pay the staff to keep the FM
14 station on the air which did generate revenue. But we -- you
15 know, in a business sense, no, we did not have \$2,000 or
16 whatever it was going to require. We were flat out of money.

17 Q So, the decision was made to take the station off
18 the air?

19 A That's right.

20 Q And there came a point shortly thereafter that the
21 decision was made to try to sell the station?

22 A Well, probably in the fall -- closer to the fall.

23 Q And at that time CAVAN had no intention of putting
24 the station back on the air, its efforts were devoted to
25 trying to sell the station?

1 A The -- no, that's not correct because I know -- I
2 think it was the following summer we had a fellow named Keith
3 Toomey who was a programmer and an engineer type and he and I
4 had had several discussions about how could we get it back on
5 the air and what would it cost in the way of, of the tubes and
6 other parts that we, we needed at that time. Because news-
7 talk formats had become a hot item and we were thinking --
8 because there was no news-talk up there at the time we were
9 thinking that maybe we could come up with a way to do it with
10 news-talk but it was always dependent upon the FM throwing off
11 some extra cash to give it to us and the fact of the matter
12 was the FM never threw off enough, enough extra cash that we
13 could do that.

14 Q The individual you just -- whose name you just
15 mentioned, is he referenced anywhere?

16 A I don't know if he is or not but I remember having a
17 -- you asked me was there any other effort made and I do
18 remember I, I had -- I'd had some conversations one time with
19 Keith about coming up with a way to do it because he was our
20 news guy and he was also -- he did a lot of technical work.
21 And he was sort of interested in the idea of trying to do
22 something with news-talk if we could afford to do it.

23 Q But apart from those casual conversations then,
24 CAVAN's efforts were really directed towards unloading the
25 station?